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1 THE WITNESS: Hold on a second.

2 Just one second. My family is calling
3 me that I have to come to dinner. So
4 I'll tell them to wait another few
5 minutes.

6 (Brief interruption.)

7 THE WITNESS: Sorry. The family is
8 looking for me, as I told you. They're
9 going to do prayers before the dinner so
10 they wanted me to come. So I said I'm
11 still trying to stretch it out.

12 A. At that time, Rock Fintek said, "Go
13 ahead, bill us for the insurance, and we will
14 pay for what it cost." And, like, this week
15 he had the credit line. So that's what we
16 did.

17 Q. Who told you that? Who told you
18 that from Rock Fintek?

19 A. Don't recall.

20 Q. Was there anything in writing that
21 you recall of Rock Fintek agreeing to pay for
22 \$65,000 of insurance for Mr. Eli Weiner?

23 A. I don't know if it was in writing,
24 but you'll ask Arik Maimon. He was the
25 negotiator constantly, as I today you. I

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1 wouldn't sell them. And Arik Maimon was the
2 negotiator, I should give credit.

3 I would not give them credit, and I
4 didn't give nobody credit. I didn't buy for
5 none of my customers insurance. I didn't
6 know what this insurance is. I never dealt
7 with such insurance company. I was
8 introduced by Eli Weiner through Rock Fintek.
9 And I went ahead -- and Eli Weiner can
10 testify on that. You can put Eli Weiner on
11 the stand. I was not introduced by me coming
12 to Eli Weiner. I was introduced when I
13 called him. He knew exactly. And he was in
14 touch with Tommy Kato.

15 And I don't know --

16 (Reporter clarification.)

17 A. He was in touch with Tommy Kato and
18 all that to get that done because I couldn't
19 get that done. It had to be financials
20 from -- from Rock Fintek. And I would
21 never -- and look at this, Phil, yeah. Look
22 at the bottom line. In my contract -- you're
23 looking at the contract. My contract says
24 very clearly that they have to pay the gross
25 for picking up. I did not give them credit,

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1 and I didn't want to give them credit.

2 Whatever credit I gave them is on
3 behalf of Arik Maimon. And I had the
4 insurance as a -- and that's what I was
5 careful about.

6 **Q. Your contract also required a**
7 **\$750,000 rebate upon completion of the**
8 **transaction, correct?**

9 A. If payments get paid up in timely
10 manner or -- or if everything is done on
11 their behalf on a timely manner. They never
12 found the second deposit.

13 **Q. Is it your position that Rock**
14 **Fintek -- that you're not required to pay the**
15 **rebate because Rock Fintek did not make the**
16 **timely payments; just is that your position?**

17 A. There is more than that. There's a
18 couple different -- this. But a rebate
19 works -- if you go buy a rebate on a dryer --
20 on a washing machine or something, it has
21 specifics into it when you fill out the paper
22 that you have to abide by. This rebate
23 had -- had specific, I think -- I don't know
24 if it says in the contract or not, but I
25 would check with my lawyer.

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1 But it had a lot of -- a lot of
2 triggers in order to get that rebate. They
3 never -- they never followed through on the
4 triggers.

5 Q. Okay. Again, I'm going to skip
6 some things to try to get this done, trying.

7 You remember having discussions --
8 at some point, Rock Fintek brought to your
9 attention that you Ascension Health was not
10 satisfied with the gloves that were delivered
11 that they bought from you, right? You
12 realized at some point there was a problem in
13 July of 2021?

14 A. Some point -- at some point in
15 July, they mentioned to me that Ascension --
16 they didn't say "Ascension" -- their
17 customer. There's always talk. I don't
18 know -- I didn't know Ascension is their
19 customer. That their customer is having
20 issues with the -- with certain things with
21 the gloves.

22 Q. You knew the customer was a
23 hospital, though, right?

24 A. No, I didn't know.

25 Q. Okay.

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1 A. By me saying "I didn't know," let
2 me clarify. Everybody wanted to get a fair
3 price or a good deal, came to me. I had a
4 lot of customers and a lot of different
5 brokers come to me. At one point, I had at
6 my house a line of 20 people waiting
7 standing, waiting for me to come.

8 And everybody came with the same
9 story: I'm dealing with a reputable hospital
10 and hospital group buying, blah, blah, blah,
11 blah, blah, give you a lot of spiels. If you
12 want to listen to it, and I don't want to
13 waste your time but. I had more -- multiple
14 people standing by my house when I come home
15 from the office and waiting for me.

16 At one point, we made a party every
17 Thursday night. And I said, "Listen, guys, I
18 don't have time to waste every day for you."
19 Every Thursday night, I had 30 people in my
20 house and sitting. And we were all sitting
21 in a conference table and discussing. And
22 everybody had hospitals and buying groups and
23 groups of hospitals. So the same spiel I
24 heard from everybody.

25 **Q. Okay. So you had discussions in**

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1 July with -- directly with Thomas Kato and
2 Bradley Gilling and Arik Maimon and -- on the
3 line to try to resolve your difference; is
4 that fair?

5 A. I don't remember if I spoke to
6 Tommy, because I think Tommy said that he's
7 getting married and he's tied up with the
8 wedding and he can't handle -- and he can't
9 deal with this. But I remember with Arik and
10 Bradley speaking several times.

11 Q. Okay. So you remember having phone
12 calls with Arik and Bradley on the line,
13 correct?

14 A. After -- after July, yes, I
15 remember.

16 Q. After July. And some of those
17 phone calls got contentious?

18 A. Please explain to me what means
19 "contentious."

20 Q. You -- you got into arguments on
21 those phone calls; fair to say?

22 A. More Arik Maimon than me, because I
23 kept it pretty -- tried to keep myself in
24 line. Arik Maimon, I don't know if you saw
25 on this, they had a lot of -- at one point,

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1 Arik didn't want to talk to Bradley. There
2 was more between Arik and Bradley getting
3 heated up and -- and -- and arguing and this.

4 I -- I did -- I did have heated
5 conversations with Bradley, but not in -- not
6 that -- to -- just in discussion like me and
7 you are arguing something. But not -- not
8 getting out of hand, that I can remember.

9 Q. You see an allegation that you made
10 a threatening statement to him in this
11 lawsuit, right?

12 A. I --

13 Q. I'm just asking you if you've
14 seen --

15 A. One second. One second. Did you
16 ask me a question? And I'm -- I'm answering
17 you. You're cutting me off. I can make
18 tomorrow allegation that you told me that
19 you're going to shoot me. And I told -- and
20 you told me that you're going to take away
21 one of my kids and -- allegation is nothing.

22 If he has allegation on such a
23 thing, let's pan it out and if he'll -- and
24 let him bring witness. I never threatened
25 nobody in my life. And I don't threaten

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1 people. I don't have nothing to threaten.
2 There's law and order.

3 Opposite, I don't get threatened.
4 I don't get scared. Everything is law and
5 order. In the United States, we live in a
6 very, very good country, United States of
7 America. And law and order is very, very top
8 of the system. I don't get -- I don't
9 threaten and I don't get threatened. If
10 somebody threatens me, I know what to do.
11 And if -- and I wouldn't threaten nobody
12 because there's no -- no threat.

13 The whole Gambino family is out of
14 context in the 2000s, so there's no threats
15 over here.

16 **Q. You made a settlement proposal in**
17 **writing in July of 2021. Do you remember**
18 **that?**

19 A. Again, yes, I remember. They were
20 trying to convince me to do a few different
21 settlements. That came with a lot of
22 gimmicks. And they're very -- but today,
23 like I tell you, that me and Arik share --
24 Maimon share a lot of information of each
25 other's pain.

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1 They're very good in persuading and
2 they came to me that I should do this and I
3 should do that because they're going to give
4 me a 2 million box contract, another
5 contract, 2 million boxes.

6 But now I know that was full of not
7 air. But, again, by the time then I was in
8 la la land because I was excited that there's
9 another 2 million boxes coming down the line,
10 yes. And, like you said, the fact is we made
11 business.

12 And it was already -- it was
13 already -- COVID almost over and everybody is
14 getting gloves. And, oh, there's another
15 guy -- the guy is coming back. He's going to
16 bring me another contract of 2 million boxes.
17 By the time -- now I know it was only to how
18 you scam me out of the money. But I don't
19 know if there was any backing on it.

20 But this is -- was all
21 conversations on the phone with Arik, that
22 they're going to give me another contract so
23 we should try to make some kind of an
24 agreement. And every day they had a
25 different number and different agreements.

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1 Q. Okay. So let me just -- just to
2 move this along. Do you see I highlighted in
3 the middle of the page paragraph 2 in your
4 email --

5 MR. RAKHUNOV: This is Exhibit, I
6 think, 21 now. It's titled, "Settlement
7 Proposal Fintek Kitchen Winners." And
8 it's an email from you to Thomas Kato,
9 Bradley Gilling, Arik Maimon and copying
10 you at your other email address.

11 (Defendant's Exhibit 21, Email
12 dated Jul 14, 2021, from Joseph Weiner
13 to Thomas Kato, et al., marked for
14 identification as of this date.)

15 BY MR. RAKHUNOV:

16 Q. And you write in paragraph 2 that
17 "Rock Fintek shall deliver to Kitchen Winners
18 and enter into a contract with Kitchen
19 Winners and fund the deposit for the purchase
20 of 2 Million boxes of Medcare nitrile
21 gloves," and so forth.

22 So I think I heard you testify a
23 moment ago that that concept came from Arik
24 Maimon. But I want the record to be clear:
25 Who made the proposal or who proposed that

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1 Rock Fintek would buy 2 million more boxes of
2 gloves as a condition of this settlement
3 proposal?

4 MR. SPERBER: Objection to the
5 form.

6 A. Bradley and Thomas Kato.

7 BY MR. RAKHUNOV:

8 Q. Okay. How did they make that --
9 did they tell you that directly or did it
10 come from Arik Maimon or something else?

11 A. No. On the contract, for sure,
12 Bradley. I don't remember Thomas because I
13 told you I think Thomas was only once or
14 twice on the phone call. And he was trying
15 to get -- to not handle this. He was trying
16 to sit back and be the backseat. So he came
17 up with an answer that it would take -- I
18 think that he's busy with his wedding. And
19 all respect -- everybody respect somebody
20 that gets married. And we should give him
21 his space.

22 But definitely this came from
23 Brad -- Bradley was on the line and proposing
24 that they're going give us a new contract in
25 order to settle the old one.

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1 Q. What did Bradley say -- tell me
2 everything you remember about what Bradley
3 said about buying 2 million more boxes of
4 Medcare Nitrile gloves as part of the
5 resolution here.

6 A. He said that, since he picked up
7 more than the -- the original contract, that
8 he wanted -- he wanted to try that the gloves
9 that he picked up on the original contract
10 should go on the second contract, on the
11 2 million boxes contract.

12 And it should be started counting
13 from there and we should negotiate new
14 pricing. So every day -- again, this is --
15 it's very confusing because there was a lot
16 of different conversations. And every day he
17 came up with another idea, a deal like and a
18 deal like that to settle it like this and to
19 settle like that.

20 He was constantly -- and I was
21 always trying to write it down and send it to
22 him in an email because he didn't send me
23 emails. And -- and -- and -- and tell him to
24 clear it up or -- or give me -- if this is
25 not the standing, if we can settle it like

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1 this.

2 But it was always a conversation
3 that he's going to give me another contract.
4 And based on that contract, we'll clean out
5 the whole -- the whole -- the whole -- how
6 you call it by us -- in the whole pectal
7 that's out there that he owes me the
8 amount -- the amount of money.

9 Q. And did Mr. Gilling or anything
10 tell you who Rock Fintek would sell those
11 additional 2 million boxes to?

12 A. He didn't tell me at the beginning
13 who his customer is, so I don't know what --
14 I would never ask his -- it's unethical for
15 me to ask who his customer is.

16 Q. Okay. Okay. Anything else that
17 you recall about what Mr. Gilling or Mr. Kato
18 or Mr. Maimon said to you about the proposed
19 \$2 million -- 2 million boxes of gloves? I
20 just want to make that you're telling me
21 everything you remember on that topic.

22 A. Just as I said, they're going to
23 give me a 2 million contract, and I should
24 work with them on better pricing. First we
25 talked about pricing \$10, then 9.50, then \$9.

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1 And then it went down to, once in our
2 conversation, maybe to 8.90 or -- it was back
3 and forth and back -- this is going on and on
4 and on and on and on. I don't recall, and I
5 don't remember.

6 Q. Okay.

7 MR. RAKHUNOV: I put Exhibit 22
8 into chat box. This is -- this is a
9 long document consisting of photographs
10 that your counsel produced just
11 recently.

12 (Defendant's Exhibit 22,
13 Photographs, marked for identification
14 as of this date.)

15 BY MR. RAKHUNOV:

16 Q. So who took these photographs? and
17 you can -- I put it in the chat box and it's
18 on the screen. I think I know where these
19 are.

20 Are these photographs that were
21 taken during the inspection of the gloves
22 during this litigation at a Medline
23 warehouse?

24 A. It looks similar to the pictures.
25 I don't know from where you got it or how you

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1 got it. And -- and I would have to review
2 it. But it's -- it looks like in the
3 Medcare's warehouse.

4 Q. Okay. And you see --

5 A. I don't know.

6 Q. I will tell you I got them from
7 your lawyer. Your lawyer gave them to me --

8 A. Fine.

9 Q. -- so they look --

10 Okay. So you remember visiting
11 Medline warehouses during this litigation and
12 looking at gloves, right? I think you and I
13 met during one of those visits; do you
14 remember that?

15 A. I remember -- I remember once --
16 yeah, I think I remember that I met you one
17 of the -- on the first warehouse that we
18 went, no?

19 Q. Grayslake, Illinois, no?

20 A. I don't remember.

21 Q. Okay.

22 A. I don't remember -- I don't
23 remember an address and I don't remember
24 where but I remember I met you the first -- I
25 think you were in the first time when I went

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1 somewhere. Am I right?

2 Q. That's -- I believe so.

3 So, wait, wait. Who -- who is this
4 individual in -- in this photograph?

5 A. Tzali Gombo.

6 Q. Okay. And he's the -- he's the
7 person you referenced earlier as an
8 industry -- as someone experienced in the
9 industry that you consulted about these
10 gloves, correct?

11 A. Correct.

12 STENOGRAPHIC REPORTER: I'm sorry.

13 Can you spell his name.

14 MR. RAKHUNOV: We can give you that
15 later. We'll give you that later. I
16 just want to move on.

17 BY MR. RAKHUNOV:

18 Q. Okay. So you took samples of the
19 gloves that you saw at the Medline
20 warehouses, correct?

21 A. Correct.

22 Q. And did -- and I don't know if your
23 lawyer will be okay with this question. But
24 did you have those gloves tested for ASTM
25 standards compliance or for their chemical

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1 qualities since you obtained those gloves?

2 A. No.

3 Q. Okay. Now, you saw that -- would
4 you agree with me -- just to move this
5 along -- that the pallets were pulled from
6 the Medline warehouse storage locations based
7 on a spreadsheet that your lawyer and me and
8 Mr. Frisch together agreed upon to have a
9 random selection of gloves; would you agree
10 with that?

11 MR. SPERBER: Objection to the
12 form.

13 A. No. Honestly, I was very upset
14 with my lawyer and we had a lot of arguments
15 about that.

16 MR. SPERBER: I'm going to direct
17 Mr. Weiner not to discuss any
18 communications you may have had with
19 counsel.

20 BY MR. RAKHUNOV:

21 Q. Okay. Would you agree with me
22 though, that a significant portion of the
23 gloves that were made available to the
24 parties to inspect at the Medline warehouses
25 that were visited were labeled "protection"

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1 on the boxes?

2 A. Please -- again, please, re --
3 resend me again -- tell me again the question
4 because --

5 Q. Sure. So, you know, we had an
6 opportunity to look at a number of gloves,
7 right, that were -- that were pulled down
8 from the various -- you know, from the
9 storage locations, right? That's an easy
10 one, right?

11 A. You want me to answer? I don't
12 understand.

13 Q. Well, yeah, yeah. We -- we had
14 Medline pull a whole bunch of gloves down.
15 And you were there, I was there at the first
16 warehouse. There were other folks at
17 different warehouses, correct?

18 A. I don't believe that they pulled it
19 down, and I don't believe a lot of things.
20 So I don't want to go into conversation on
21 that because it's privileged between me and
22 my lawyer that I spoke to him. But I cannot
23 answer this question.

24 Q. Well, okay. I don't want to know
25 anything you spoke with your lawyer about.

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1 But I can put it back up on the
2 screen. It's fair that Medline pulled
3 gloves; they pulled, I think, 30 pallets at
4 each warehouse approximately.

5 A. It's fair to say that I went into a
6 Medline warehouse, there was 30 pallets of
7 gloves. Not pulled.

8 Q. Okay.

9 A. Don't -- don't put things in my
10 mouth. Not pulled. Again, I'm going to
11 repeat. Not pulled, not Medline's warehouse.
12 It was when I came to Medline's warehouse,
13 there was 30 pallets sitting on the floor to
14 inspect.

15 Q. Okay. I will agree with you that
16 that is -- that was there.

17 And you personally opened some of
18 the cartons and pulled boxes out and looked
19 at the gloves, correct?

20 A. No, I never looked at -- took
21 pictures. I didn't even look at the thing
22 because I was always on a tight leash of
23 getting -- report -- took pictures -- tons of
24 pictures. My --

25 STENOGRAPHIC REPORTER: I'm sorry,

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1 you're cutting out.

2 BY MR. RAKHUNOV:

3 **Q. You never took any tissue boxes of**
4 **gloves with you?**

5 A. I'm in the middle of telling you.

6 MR. RAKHUNOV: Well, you cut out.

7 STENOGRAPHIC REPORTER: You both
8 cut out.

9 MR. RAKHUNOV: You cut out. We
10 just couldn't hear you.

11 THE WITNESS: Okay. Now you hear
12 me?

13 STENOGRAPHIC REPORTER: Yes.

14 A. Okay. I went down to the place. I
15 took samples. The first -- the first
16 warehouse, I took a lot of samples. I think
17 I took from every pallet, one. Then I -- we
18 had problems of going back to the -- to
19 New York with it. It was too big of a
20 schlep.

21 I think on the second warehouse --
22 second, third and fourth and whatever, I
23 don't remember, the other warehouses, I took
24 randomly only from each size. Not from every
25 pallet. All those pictures and -- by my

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1 lawyer and you can look at everything that --
2 pictures. But I didn't even focus on
3 looking -- I didn't open -- never boxes for
4 the inside of the glove to touch. I never
5 opened up individual tissue box.

6 I just opened up the boxes and took
7 out tissue box and put it in a box and
8 brought it back to New York. The rest, you
9 have to ask my lawyer.

10 **Q. And did you see -- well, you looked**
11 **at some -- a lot of the tissue boxes, right?**
12 **You didn't put your eyes on them?**

13 **A.** I didn't put -- only the outside
14 box. By chance, I didn't put the eyes on the
15 tissue box. I didn't have enough time. I
16 was very crunched on time.

17 If you remember the first time when
18 you came, they didn't -- you wasted an hour
19 to get into each premises. You wasted an
20 hour to get in. Usually I try to get back
21 home on the same time. They had to make
22 phone calls that came down from top and
23 beginning. It always was a -- it was a
24 little bit of hassle until you got into the
25 place. It was always a waste, between an

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1 hour or 30 minutes or 45 minutes.

2 So I was focusing to get in, take
3 pictures, like my lawyer told me, advised me,
4 take as much pictures you can, and the
5 close-up pictures and far pictures. And I
6 tried to get up on the -- on the high low to
7 get a picture from view of the top. If you
8 see my lawyer most probably said --

9 MR. SPERBER: Don't discuss
10 anything that I may have said to you or
11 you may have said to me.

12 A. I -- I don't know my -- if my
13 lawyer shared with you the pictures. You'll
14 see I took a lot, a lot of pictures that he
15 should be able to have. And I took pieces --
16 like you said, the first warehouse I took
17 each pallet. After that, I started taking
18 only from -- I think by size, two medium, two
19 large -- three medium or three -- I don't
20 recall -- pieces of each size.

21 **Q. Okay. All right.**

22 MR. SPERBER: I just want to note,
23 Phil, you asked me earlier about the
24 invoices in our production. The
25 invoices are in our fourth production

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1 starting, I believe, at Bates number
2 2051. Those are the shipping and the
3 storage invoices.

4 THE WITNESS: Okay. Guys, it's
5 really -- it's now 4:57.

6 MR. RAKHUNOV: Yeah. We'll --
7 we'll take a look at that. That's fine,
8 Mr. Weiner, have a good night.

9 THE WITNESS: Thank you. I'm
10 sorry, Phil, I tried my best. Bye.

11 MR. RAKHUNOV: Okay.

12 MR. SPERBER: Any questions on
13 spelling.

14 MR. RAKHUNOV: Yeah, Alex, can you
15 actually -- I'm sorry. Before you do
16 that, can you just repeat that Bates
17 number again.

18 MR. SPERBER: I'm sorry. Hold on.
19 I believe starting at Bates number 2051.

20 MR. RAKHUNOV: I'll take a look.

21 MR. SPERBER: These were the
22 documents that we initially re-called
23 because they were attached to our
24 privilege email. They were re-produced
25 subsequently in our fourth production.

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1 MR. RAKHUNOV: Okay, Tami, what can
2 I do for you?

3 STENOGRAPHIC REPORTER:

4 Mr. Sperber, are you ordering a copy of
5 the transcript?

6 MR. SPERBER: I believe so.

7 STENOGRAPHIC REPORTER: Okay. And,
8 Mr. Frisch, are you ordering a copy of
9 the transcript?

10 (Continued on next page to include
11 jurat.)

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1 MR. FRISCH: No, I'm not.

2 MR. SPERBER: I do want to just
3 note for the record we do want read and
4 sign.

5 STENOGRAPHIC REPORTER: Okay.

6 (Time noted: 11:00 a.m.)

7

8

9

10 _____
HERSHEY WEINER

11

12 Subscribed and sworn to before me

13 this____ day of _____, 2023.

14

15 _____

16

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